

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
Case No. 2:20-cr-00004-M-1

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                             )                              **ORDER**  
                                )  
                                )  
FREDERICK W. BERGER,     )  
                               )  
                               Defendant.. )

This matter comes before the court on Defendant Frederick W. Berger's August 14, 2020 motion seeking a competency examination pursuant to 18 U.S.C. § 4241. [DE-56]

The court's reasoning for granting Defendant's motion and the contours of the competency examination and report ordered are explained within its August 19, 2020 order. [DE-62] Within that order, the court ordered the parties to agree upon a professional to conduct the examination [DE-62], and the parties subsequently agreed that Dr. James H. Hilkey was available to do so [DE-63].

At an August 27, 2020 status conference with the parties, the court accepted Dr. Hilkey as a suitable professional to conduct the examination, and ordered the parties to (1) confirm and propose details regarding the examination and (2) brief the issue of who should pay for the examination. [DE-66] The parties submitted a consent motion on September 1, 2020 (1) agreeing to proposed details regarding the examination and (2) jointly recommending that the court order the United States Department of Justice ("DOJ") to foot the bill. [DE-67]

The court finds the parties' proposals acceptable, and agrees that the DOJ should pay for the examination, based upon the court's review of the Administrative Office of the United States Courts' Guide to Judiciary Policy, Vol 7 Defender Services, Part A Guidelines for Administering the Criminal Justice Act

and Related Statutes, Chapter 3: Authorization and Payment for Investigative, Expert, or Other Services § 320.20 (providing policy guidance regarding a number of federal statutes). Therefore, the court ORDERS Defendant to submit to, and Dr. Hilkey to conduct, the outpatient competency examination contemplated within the court's August 19, 2020 order [DE-62], which shall take place at the Dare County Justice Center Magistrate Courtroom beginning on September 10, 2020 and shall continue until Dr. Hilkey concludes that the examination has been completed. The court also ORDERS Dr. Hilkey to submit the report contemplated within the August 19, 2020 order [DE-62], and for the DOJ to pay for Defendant's examination.

The court has determined that the ends of justice outweigh the best interests of the public and Defendant in a speedy trial. The delay occasioned by this order shall therefore be excluded in computing Defendant's speedy-trial time. *See* 18 U.S.C. § 3161(h)(7)(A).

SO ORDERED this the 20 day of September, 2020.

  
RICHARD E. MYERS II  
UNITED STATES DISTRICT JUDGE